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GUIDELINES ON RECOMMENDATIONS -
GRADE AT RETIREMENT

1. Satisfactory Service in the Grade Currently Held. Officers who retire from the Naval Service may be retired in the highest grade that they served on active duty satisfactorily, as determined by the Secretary. This determination will be made by the Secretary without a BOI in those cases, forwarded per paragraph 1c or 2 of this enclosure, where the officer has submitted a voluntary retirement request. In any other case where CHNAVPERS or DC/S (M&RA) determines that retirement in lesser grade may be appropriate, a BOI shall be tasked, in accordance with enclosure (8), to recommend whether the officer should be retired in the current grade or a lesser grade. In making this recommendation, the BOI must determine the grade in which the officer last served satisfactorily for a period of not less than 6 months. The BOI determination is merely a recommendation and the final decision as to retirement grade rests with the Secretary. Finally, the procedures in this enclosure do not apply to officers retiring in the grades of O-9 and O-10. DODINST 1320.4 of 14 March 1995 (NOTAL) provides procedures applicable to officers retiring in grades O-9 and O-10.

a. General Guidance. A recommendation that an officer has or has not served satisfactorily in the grade currently held should be based on a determination made after considering all relevant factors, such as the nature of the misconduct and its effect on professional performance. If a BOI is held, the record must support such a determination. In the case of a retirement-eligible officer, the BOI or officials reviewing the retirement request should recommend retirement in a lesser paygrade if the BOI or reviewing officials determine that the officer's misconduct was serious enough to constitute a significant departure from the conduct required of an officer of the Naval Service. Examples of such misconduct include, but are not limited to: abuse of special position of trust; an act or acts which bring discredit upon the armed services; disregard by a superior of customary superior-subordinate relationships; acts or omissions that adversely affect the ability of the military unit or the organization to maintain discipline, good order, and moral or endanger the security of the United States or the health and welfare of other members of the Armed Forces; and deliberate acts or omissions that seriously endanger the capability, security, or safety of the military unit or health and safety of other persons. However, when the officer's record, in spite of the misconduct, is otherwise so

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meritorious as to demonstrate that the officer served satisfactorily in the grade currently held, the recommendation should be for retirement in that grade.

b. Specific Factors. In considering whether an officer served satisfactorily in the grade currently held, the following factors should normally be considered:

- (1) Nature and severity of the misconduct;
- (2) The misconduct and its relation to, and effect on the performance of military duties.
- (3) All fitness reports and other portions of the service record which reflect performance in the current grade. In this regard it is appropriate to consider whether the misconduct was known by reporting seniors, and if not, what effect, if any, it might have had on the officer's record.
- (4) Time in current grade, and relation between such time and the time of misconduct.
- (5) Other relevant matters presented either by the record or the officer.
- (6) Chain of command recommendations.

c. Forwarding Procedures. All voluntary retirement requests from officers who have been the subject of any substantiated adverse finding or conclusion from an officially documented investigation or inquiry (except minor traffic infractions) shall be forwarded to the Secretary for a retirement grade determination if: for officers in paygrades O-7 and O-8, the investigation or inquiry was completed subsequent to the officer's most recent Senate confirmation; or, for officers in paygrades O-5 and O-6, the investigation or inquiry was completed within 2 years of the date the voluntary retirement request is submitted. However, CHNAVPERS or DC/S (M&RA) may, in their discretion, forward a case completed prior to the 2 years before the date of the voluntary retirement request if circumstances warrant.

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(1) Prior to forwarding a voluntary retirement request to the Secretary, CHNAVPERS or DC/S (M&RA) shall notify the officer in writing of the following:

(a) That the officer's voluntary retirement request is being forwarded to the Secretary for a retirement grade determination.

(b) The factual basis supporting the substantiated adverse finding or conclusion from the officially documented investigation or inquiry.

(c) The recommended retirement grade.

(d) That the officer may submit a rebuttal or decline to make a statement.

(e) That the officer has the right to confer with appointed counsel as provided in paragraph 3 of enclosure (7).

(f) That the officer will, upon request, be provided copies of the papers to be forwarded to the Secretary. Classified documents may be summarized.

(g) That the officer has the right to waive subparagraphs (d), (e), and (f), and that failure to respond shall constitute waiver of the rights in these paragraphs.

(h) That the officer has a specified period of time to respond to the notification as provided in paragraph 4 of enclosure (7).

(2) The officer's response shall be forwarded to CHNAVPERS or DC/S (M&RA) with appropriate command recommendations. CHNAVPERS or DC/S (M&RA) shall ensure that the request and all related material has been reviewed by at least two general or flag officers and that each such general or flag officer has made an independent recommendation regarding retirement grade. CHNAVPERS or DC/S (M&RA) shall then forward the case file to the Secretary, via the Chief of Naval Operations or Commandant of the Marine Corps, with a retirement grade recommendation.

d. The final determination of retirement grade rests exclusively with the Secretary. Commanders are not authorized to enter into agreements in which an officer is to be retired at a particular grade level.

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2. Retirement-Eligible Officer

a. Any officer being considered for administrative show cause proceedings in accordance with this instruction who is eligible for voluntary retirement under any provision of law may submit a request for voluntary retirement. The request shall be submitted via CHNAVPERS or DC/S (M&RA) and shall include the following information:

(1) A statement that the officer understands that a BOI will not be convened to make a recommendation to the Secretary on retirement grade.

(2) A statement that the officer understands that the Secretary may retire him or her in a lesser paygrade than currently held; and that the retirement grade will be the highest grade in which the officer served satisfactorily, as determined by the Secretary.

(3) A statement that the officer has consulted with counsel, including counsel's name, grade, and branch of service. If civilian counsel is retained, provide name and address.

(4) A statement that the officer admits that his or her performance of duty was substandard, and if the officer is being required to show cause for misconduct, that he or she admits committing the misconduct.

(5) A statement that the request is voluntary and may be withdrawn only with the permission of the Secretary.

(6) A statement by the officer that he or she does or does not desire to provide supplemental material to the Secretary for consideration. Any supplemental material provided by the officer will be attached to the request.

b. The request shall also include a copy of the investigation or other documentation pertaining to the misconduct.

c. The request shall be forwarded with appropriate command endorsements. Each endorsement shall include a recommendation to approve or disapprove the request and a statement indicating the highest grade in which the officer served satisfactorily. Any relevant information or investigative material not included in the original request should also be included. Any new factual material shall be provided to the officer for review and comment.